

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

December 11, 2008

DIVISION ONE

B205899 People (Not for Publication)

V.

Gerardo Perez Rosas

The judgment is affirmed.

Dunning, J. (Assigned)

We concur: Mallano, P.J.

Rothschild, J.

B203537 Los Angeles County, D.C F.S. (Not for Publication)

V.

A.M.

The judgment is reversed and the matter is remanded for further proceedings.

Dunning, J. (Assigned)

We concur: Mallano, P.J.

Rothschild, J.

B204505 People

V.

Joseph Harmon

Filed order denying petition for rehearing.

December 11, 2008 (Continued)

DIVISION TWO

1004128-09

The Honorable **MADELEINE I. FLIER**, Associate Justice of the Court of Appeal, Second Appellate District, Division Eight, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Two, as a justice thereof, on the following date:

January 22, 2009

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal Justice, all petitions for rehearing arising out of such causes and matters. This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

December 10, 2008

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

B203037 People (Not for Publication)
v.
Reynolds

The judgment is affirmed.

Chavez, J.

We concur: Doi Todd, Acting P.J.
 Ashmann-Gerst, J.

DIVISION THREE

B204281 People (Not for Publication)
v.
Eric L. Washington

The judgment is affirmed as modified. The abstract of judgment shall be amended to reflect an award of presentence custody credits in the total amount of 746 days. The trial court is directed to prepare an amended abstract of judgment reflecting this change and forward it to the Department of Corrections.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B204810 People (Not for Publication)
v.
Renzo Francisco Eguiluz

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B208284 GGIS Insurance Services, Inc., et al. (Certified for Publication)
B208616 v.
Superior Court, Los Angeles County
(Capitol Indemnity Corporation, r.p.i.)

The petitions are denied. Capitol is entitled to recover its costs in these appellate proceedings.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (continued)

B200652 Vernon Madden (Not for Publication)

v.

Superior Court, Los Angeles County
(The People, r.p.i.)

The petition is denied insofar as it seeks apointment of a laboratory to conduct DNA testing of the rape kit in Case No. LA22943. The petition is granted insofar as it seeks the superior court to appoint a laboratory to conduct DNA testing of the rape kit in Case NO. NA057621.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

B203595 In re Zenaida Aguilar (Certified for Partial Publication)
 on
 Habeas Corpus

Aguilar's petition for writ of habeas corpus is granted. The Governor's decision to reverse the Board's grant of parole to Aguilar is vacated and the Board's parole release order is reinstated. Because we have reviewed the materials that were before the Board and found no evidence to support a decision other than the one reached by the Board, a remand to the Governor would amount to an idle act. (See *In re Smith* (2003) 109 Cal.App.4th 489, 507.) We therefore order that Aguilar be released forthwith pursuant to the conditions set forth in the Board's December 6, 2005, decision (See *In re Gray* (2007) 151 Cal.App.4th 379,411.). Considering that Aguilar's release by the Board would have been final in April 2006, more than two and one-half years ago, and in the interests of justice, this opinion shall be final as to this court immediately. (Cal. Rules of Court, rule 8.264 (b)(3); *In re Gray*, supra, 151, Cal.App.4th at p. 411.)

Kitching, J.

We concur: Klein, P.J.
 Aldrich, J.

December 11, 2008 (Continued)

DIVISION THREE (continued)

B202343 Liang, et al. (Not for Publication)
 v.
 County of Los Angeles, et al.

The order of dismissal dated July 18, 2007, is affirmed. Defendants shall recover their costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

Court convened at 9:00 a.m.

Present: Epstein, P.J., Willhite, J., Suzukawa, J. and S. Veverka, Deputy Clerk.

Each of the following:

B202512 People v. Banuelos
B205761 People v. Turner
B197632 People v. Leon
B202370 People v. Gonzales
B208288 DCFS v. J.N., et al.
B203842 DCFS v. A.B.
B206645 DCFS v. J.G.
B211058 J.L. v. SCLA (DCFS)

Argument waived, cause submitted.

B201886 People
 v.
 Beyah

Merits:
Argued by James Koester for appellant and by J. Michael Lehmann Deputy Attorney General for respondent. Cause submitted.

DIVISION FOUR (continued)

B209241 Blagg
 v.
 Superior Court, Los Angeles County
 (The People, r.p.i.)

Merits:
Argued by Jean Matulis for petitioner and by Roberta Schwartz Deputy
District Attorney for real party in interest. Cause submitted.

B200625 Cheung
 v.
 Ker et al.

Merits:
Argued by Christopher G. Weston for appellant, by Matthew B. Stucky for
respondent Ker and by Sandra F. Winter for respondent Alhambra Hospital
Medical Center. Cause submitted.

Manella, J. assumes the bench.

B200964 E.O.C. Ord, Inc., et al.
 v.
 Makoff et al.

Merits:
Argued by Geoffrey A. Beaty for appellants and by Michael Murphy for
respondents. Cause submitted.

B201763 Noval
 v.
 Moritz

Merits:
Argued by Jon Freis for appellant and by Marla A. Brown for respondent.
Cause submitted.

DIVISION FOUR (continued)

B204034 Withem
 v.
 Ron Rogers & Associates

Merits:
Argued by Jerry L. Webb for appellant and by Dennis J. Walsh for
respondent. Cause submitted.

B204987 Exxon Mobil Corporation
 v.
 Office of Environmental Health Hazard Assessment et al.

Merits:
Argued by William K. Rawson for appellant and by Susan S. Fiering for
respondents. Cause submitted.

B205465 McVey
 v.
 Day

Merits:
Argued by Glenn Rothner for appellant and by Margaret E. Morrow for
respondent. Cause submitted.

B203921 Bond
 v.
 Hawkins

Merits:
Argued by David Azizi for appellant, by Kathryn Albarian for respondent
Hawkins and by Courtney B. Lockhart for respondent Larimore. Cause
submitted.

Court recessed.

DIVISION FOUR (continued)

Court reconvened at 1:30 p.m.

Present: Epstein, P.J., Willhite, J., Manella, J., Suzukawa, J. and V. Guzman , Deputy Clerk.

Each of the following:

B200015 People v. David
B202561 People v. Gutierrez and Carpintero
B202211 People v. Paul
B206337 DCFS v. G.P. and J.G.
B208136 DCFS v. N.L. and R.S.
B207208 DCFS v. R.P.

Argument waived, cause submitted.

B200327 Gussman
 v.
 English

Merits:
Argued by Sheila A. Wirkus for appellant. No brief filed by respondent.
Cause submitted.

B199029 Hesselgesser, et al.
 v.
 Citibank et al.

Merits:
Argued by Gerald M. Serlin for appellants and by Barry D. Hovis for respondent. Cause submitted.

DIVISION FOUR (continued)

B202451 Lee
 v.
 Lee

Merits:

Argued by Jason Friedman for appellant and by J. Grant Kennedy for respondent. Cause submitted.

B203791 J. Kel Painting & Wallcovering, Inc.
 v.
 Burbank Unified School District

Merits:

Argued by Richard D. Ackerman for appellant and by Nancy P. Doumanian for respondent. Cause submitted.

B183878 People
 v.
 Belshaw

Merits:

Argued by Ralph H. Goldsen for appellant and by Thomas C. Hsieh, deputy attorney general for respondent. Cause submitted.

B203935 People
 v.
 Graff

Merits:

Argued by Kelly C. Quinn for appellant and by Allison H. Chung, deputy attorney general for respondent. Cause submitted.

DIVISION FOUR (continued)

B200213 Sandoval
 v.
 Los Angeles County DPSS

Merits:
Argued by Emmanuel Akudinobi for appellant and by Calvin House for respondent. Cause submitted.

B203797 Chaidez
 v.
 Sarner Enterprises, Inc.

Merits:
Argued by E. Sean McLoughlin for appellant and by Francisco A. Hoyng for respondent. Cause submitted.

Court adjourned.

DIVISION FIVE

B207338 Los Angeles County, D.C F.S. (Not for Publication)
 v.
 L.C.

The purported appeal from the May 1, 2007 order denying the mother reunification services as to E.C. is dismissed. The April 21, 2008 order denying reunification services as to G.C. and M.C. is reversed. The cause is remanded for the sole purpose of complying with the Indian Child Welfare Act as to G.C. and M.C.

Turner, P.J.

We concur: Armstrong, J.
 Mosk, J.

DIVISION SIX

Court convened at 1:30 p.m.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J., P. McGill, Chief Deputy Clerk and G. Bents, Senior Deputy Clerk.

Each of the following:

B193557 People v. Hall
B197438 People v. Ceja
B200258 People v. Acevedo
B200472 People v. Barger and Jonnson
B201228 People v. M.V.
B201362 People v. Ortiz
B201879 People v. Napoles
B202230 People v. John
B203039 People v. Napolitano
B203878 People v. Diaz
B204402 People v. Beltran
B204668 People v. Lane
B205663 People v. Hernandez
B205700 People v. McKibben
B205865 People v. Rosales
B207201 People v. Duggan
B208216 People v. King

Argument waived, cause submitted.

B198095 People
 v.
 Garcia

Merits:

Argued by Richard Eric Holly for appellant and by Laura J. Hartquist, Deputy Attorney General, for respondent via video conference. Cause submitted.

DIVISION SIX (continued)

B204534 People
 v.
 Roman

Merits:

Argued by Gregory Thomas May for appellant and by Nima Razfar, Deputy Attorney General, for respondent via video conference. Cause submitted.

B205941 People
 v.
 Myers

Merits:

Argued by James S. Lohead for appellant and by Eric J. Kohm, Deputy Attorney General, for respondent via video conference. Cause submitted.

B207595 People
 v.
 Fisher

Merits:

Argued by Jean F. Matulis for appellant and by Eric J. Kohm, Deputy Attorney General, for respondent via video conference. Cause submitted.

B205902 People
 v.
 Baker

Merits:

Argued by Richard B. Lennon for appellant and by David F. Glassman, Deputy Attorney General, for respondent. Cause submitted.

DIVISION SIX (continued)

B201268 People
 v.
 Marin

Merits:

Argued by Charles M. Sevilla for appellant and by David F. Glassman, Deputy Attorney General, for respondent. Cause submitted.

B198096 People
 v.
 Metzger and Hernandez

Merits:

Argued by Wendy C. Lascher for appellant Metzger, by Madeline McDowell for appellant Hernandez and by Douglas L. Wilson, Deputy Attorney General, for respondent via video conference. Cause submitted.

Gilbert, P.J. left the bench.

B200998 People
 v.
 Robinson and Knapp

Merits:

Argued Maxine Weksler for appellant Knapp; by David L. Polsky for appellant Robinson via video conference; and by Stephanie C. Brennan, Deputy Attorney General, for respondent via video conference. Cause submitted.

Court adjourned.

DIVISION SEVEN

B205218 Marcelin
 v.
 Johnson

Filed order denying petition for rehearing.

December 11, 2008 (Continued)

DIVISION EIGHT

[illegible]

The judgment is affirmed.

Rubin, Acting P.J.

We concur: Flier, J.
Bigelow, J.

B199087 People (Not for Publication)
v.
J.P.,
In re J.P., a Person Coming Under the Juvenile Court Law.

The order under review is affirmed.

Cooper, P.J.

We concur: Flier, J.
Bigelow, J.

B197805 People (Not for Publication)
v.
J.G.
In re J.G., a Person Coming Under the Juvenile Court Law.

The order is affirmed.

Cooper, P.J.

We concur: Flier, J.
Bigelow, J.

DIVISION EIGHT (continued)

B206030 Los Angeles County, D.C F.S. (Not for Publication)
v.
F.T.,
In re J.T., a Person Coming Under the Juvenile Court Law.

The juvenile court's orders denying father's section 388 petition and terminating father's parental rights are affirmed.

Cooper, P.J.

We concur: Rubin, J.
Flier, J.

B206589 Los Angeles County, D.C F.S. (Not for Publication)
v.
E.G.
In re J.E., a Person Coming Under the Juvenile Court Law.

The order is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Bigelow, J.

B189263 Young, (Certified for Partial Publication)
v.
Exxon Mobil Corporation et al.,

The judgment, modified to reflect costs of \$7,248.93 rather than \$25,998.93, is affirmed. The parties shall bear their own costs on appeal.

Cooper, P.J.

We concur: Rubin, J.
Flier, J.